

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**FILED**

08 MAY 27 AM 11:49

UNITED STATES OF AMERICA,

) Magistrate Docket No.

Plaintiff,

) **'08 MJ 1652**) COMPLAINT FOR VIOLATION OF:*xxo*
DEPUTY

v.

) Title 8, U.S.C., Section 1326

Maximiano LUCATERO-Diaz,

) Deported Alien Found in the

) United States

Defendant

The undersigned complainant, being duly sworn, states:

On or about **May 23, 2008** within the Southern District of California, defendant, **Maximiano LUCATERO-Diaz**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27th DAY OF MAY 2008



Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Maximiano LUCATERO-Diaz

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On May 23, 2008, Border Patrol Agent A. Magana was performing his assigned duties in the Campo, California area of responsibility. Agent Magana responded to a citizen report of about fourteen individuals walking along the road at Oak Drive and west of Buckman Springs Road. This area is approximately 9 miles east of the Tecate, California port of entry, and about one mile north of the United States/Mexico international border. Individuals attempting to further their entrance into the United States frequent this area.

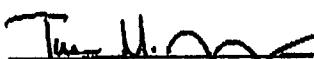
Agent Magana arrived in the general location and observed fresh footprints heading north on a known undocumented alien trail. Agent Magana followed the footprints north when he encountered fourteen individuals attempting to conceal themselves in some brush. Upon encountering the fourteen individuals, Agent Magana immediately identified himself as a United States Border Patrol Agent and questioned each subject as to their citizenship and immigration status, including one later identified as the defendant Maximiano LUCATERO-Diaz. All subjects including the defendant freely admitted to Agent Magana to being citizens and nationals of Mexico without the proper documents to enter or remain in the United States legally.

At approximately 8:00 a.m., all subjects, including the defendant, were arrested and transported to the Border Patrol Station in Campo, California for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on or about May 14, 2008 through Nogales, Arizona. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

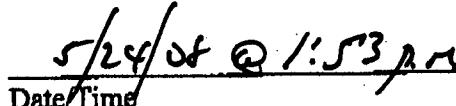
The defendant was advised of his Miranda Warnings and was willing to make a statement without an attorney present. The defendant freely admitted to being a citizen and national of Mexico illegally present in the United States without proper documentation.

Executed on May 24, 2008 at 9:30 a.m.


Tomas M. Jimenez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on May 23, 2008, in violation of Title 8, United States Code, Section 1326.


Jan Adler
United States Magistrate Judge


Date/Time